



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0239]

Parts and Accessories Necessary for Safe Operation; Volvo Trucks of North America

Application for an Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Volvo Trucks of North America's (Volvo) application for a limited 2-year exemption from 49 CFR 393.60(e)(1) on behalf of motor carriers operating Volvo commercial motor vehicles (CMVs) to use a rain and ambient light detection sensor mounted in the windshield area at a height lower than what is currently allowed by the regulation. The sensor is part of a hands-free driver aid equipment package intended to improve driver safety. The Agency has determined that the placement of the rain and ambient light detection sensor in the windshield area would not have an adverse impact on safety and that the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

DATES: This exemption is effective December 21, 2015 and ending December 20, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to

www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Volvo's Application for Exemption

Volvo applied for an exemption from 49 CFR 393.60(e)(1) to allow the placement of a rain and ambient light detection sensor on Volvo CMVs lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a mounting location that allows the

sensor to function correctly. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted on the windshield. Antennas, transponders, and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals.

The application stated:

Volvo is making this request so that it becomes possible to introduce a rain and ambient light detection sensor as an option on some Volvo commercial motor vehicles. In order for the sensor to function correctly, it must be installed in the wiper swept area of the windshield. This is due to the fact that an unswept portion of the windshield, which would not necessarily be kept clean and dry by the wipers, could make it difficult for the sensor to determine if the wipers are needed or not. The sensor, which is approximately 2.6 inches tall by 2.2 inches wide, would be placed on the passenger side of the windshield, outside the driver's sight lines to all mirrors, highway signs, signals, and view of the road ahead. Therefore, we respectfully request an exemption to grant us permission to proceed with the installation of the sensor on the lower part of the windshield within the bottom 6 inches of the area swept by the wipers...

This will enable Volvo to install this hands-free driver aid equipment for commercial motor vehicle operators while ensuring the adherence to the specified location requirements requested...

Without the proposed exemption, Volvo stated that it will not be able to deploy the rain sensor and ambient light system in vehicle models because (1) its "customers will be fined for violating the current regulation," and (2) "the rain and ambient light sensing system will not perform adequately and will not generate the hands-free driver aid benefits that would be expected."

The exemption would apply to all Volvo CMVs. Volvo believes that mounting the sensor lower in the windshield will allow it to function properly while maximizing the external view of the road and maintaining an adequate forward facing field of view for the driver.

Comments

FMCSA published a notice of the application in the **Federal Register** on July 24, 2015, and asked for public comment (80 FR 44186).

The Agency received one comment from an anonymous commenter, supporting the exemption application.

FMCSA Decision

The FMCSA has evaluated the Volvo exemption application. The Agency believes that granting the temporary exemption to allow the placement of the rain and ambient light detection sensor lower in the windshield than is currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the rain and ambient light detection sensor would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the bottom 7 inches of the area swept by the windshield wiper¹ and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of rain and ambient light detection sensors by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency action permitting the placement of similarly-sized devices on CMVs within the lower portion of the windshield within the bottom 7 inches of the wiper swept area. In March 2015, FMCSA granted a temporary exemption to Volvo/Prevost, LLC enabling the mounting of lane departure warning (LDW) system sensors not

¹ In its exemption application, Volvo referenced two different mounting locations: "within the bottom 6 inches of the area swept by the wipers," and "within 7 inches at the bottom of the wiper swept area of the windshield. FMCSA confirmed with the applicant, Mr. Tim LaFon, Volvo's Vice President of Regulatory Affairs, that the top of the sensor will be located 160 mm (6.3 inches) from the bottom of the windshield. As such, the subject exemption permits mounting of the rain and ambient light detection sensor within the bottom 7 inches of the area swept by the wipers.

more than 7 inches above the lower edge of the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals (80 FR 13460).

FMCSA is not aware of any evidence showing that the installation of the LDW system sensors has resulted in any degradation in safety.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 2-year period, beginning December 21, 2015 and ending December 20, 2017. During the temporary exemption period, motor carriers will be allowed to operate CMVs manufactured by Volvo equipped with rain and ambient light detection sensors placed on the lower part of the passenger side of the windshield within the bottom 7 inches of the area swept by the wipers, outside the driver's sight lines to all mirrors, highway signs, signals, and view of the road ahead. The exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating Volvo CMVs equipped with rain and ambient light sensors are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to

interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Issued on: December 10, 2015.

T.F. Scott Darling, III
Acting Administrator